

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES IMMEDIATE

INFO AMEMBASSY NASSAU

AMEMBASSY SAN JOSE

C O N F I D E N T I A L STATE 230069

E.O. 11652, GDS

TAGS: PFOR, CPRS, BF

SUBJECT: EXTRADITION - ROBERT L. VESCO

REF: BUENOS AIRES 8504

1. APPARENT EXISTENCE OF A DECLARATORY JUDGMENT AGAINST THE U.S. IN SUIT INVOLVING EXTRADITION IS AN UNEXPECTED AND STARTLING DEVELOPMENT. DEPT KNOWS OF NO PRECEDENT FOR THIS PROCEDURE IN INTERNATIONAL EXTRADITION PRACTICE INVOLVING U.S. OR ANY OTHER COUNTRY. NEWS OF JUDGMENT IS DISTURBING BOTH BECAUSE OF THE DECLARATORY JUDGMENT PROCEDURE INVOLVED AND BECAUSE SUIT WAS PURSUED ENTIRELY EX PARTE WITHOUT NOTICE TO THE U.S. AS A PARTY. DEPT DOES NOT KNOW WHAT THE LEGAL EFFECT OF SUCH A JUDGMENT MAY BE, BUT WE SERIOUSLY QUESTION WHETHER THE LAW OF ARGENTINA WOULD PERMIT SUCH A PROCEDURE AND SUCH A RESULT IN VIEW OF EXISTENCE OF EXTRADITION TREATY. NEW TREATY, WHICH ENTERED INTO FORCE ONLY ONE YEAR AGO, AUTHORIZES NO SUCH PROCEDURE.

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2. DEPENDING UPON SIGNIFICANCE OF PRESS REPORTS THAT

MIN INTERIOR LLAMBI DENIES EXISTENCE OF ANY ARRANGEMENT WHICH WOULD FORECLOSE VESCO'S EXTRADITION, DEPT WILL WANT TO CONSIDER TRYING TO REOPEN JUDGMENT AND TO CONSIDER REQUESTING GOA TO EXPLAIN LEGAL EFFECT OF DECLARATORY

JUDGMENT ON REQUEST FOR EXTRADITION UNDER TREATY.

3. IN INTERIM, AND UNLESS EMBASSY KNOWS THAT JUDGMENT HAS BEEN SET ASIDE, EMBASSY SHOULD REQUEST CERTIFIED COPIES OF SUIT AND JUDGMENT WHICH WE UNDERSTAND ARE PUBLIC DOCUMENTS AND POUCH TO DEPT ASAP. IF EMBASSY ANTICIPATES DELAY IN RECEIPT BY DEPT BEYOND A WEEK, EMBASSY SHOULD TELEGRAPH DEPT THE FOLLOWING INFO: (A) DATE SUIT FILED, (B) WHAT PROCEEDINGS TOOK PLACE AND WHEN -- I.E. WHETHER THERE WAS A HEARING, OR WHETHER SUIT CONSIDERED ONLY ON BRIEFS; (C) WHETHER THERE IS ANY RECORD OF NOTIFICATION TO U.S. OF SUIT; (D) WHAT VESCO ALLEGED REGARDING ANTICIPATED CHARGES BY U.S. IN AN EXTRADITION REQUEST; (E) WHAT SECTIONS, IF ANY, OF EXTRADITION TREATY VESCO CITED AS SUPPORT FOR HIS SUIT; (F) SUBSTANCE OF JUDGMENT; AND (G) WHAT SECTIONS OF EXTRADITION TREATY OR ARGENTINE LAW WERE CITED BY JUDGE IN HIS DECISION.

4. ARGENTINE EXTRADITION EXPERT THOMAS A. J. BOYWITT OF FIRM OF BRONS AND SALAS EXPECTED TO BE IN DEPT NEXT WEEK TO CONSULT ON OTHER EXTRADITION CASES. IN ADVANCE OF THIS, EMBASSY INSTRUCTED TO ASK HIM IF HE WILL PROVIDE EMBASSY WITH HIS VIEWS OF SUIT AND JUDGMENT, WITH PARTICULAR REFERENCE TO POSSIBILITY OF REOPENING SUIT SINCE U.S. WAS A PARTY AND U.S. WAS NOT SERVED AND GIVEN OPPORTUNITY TO RESPOND. KISSINGER

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